

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



March 14, 2003

Regulation Package #0102-03

CDSS MANUAL LETTER NO. EAS-03-01

TO: HOLDERS OF THE EAS MANUAL, DIVISION 89

**Regulations Package # 0102-03****Effective 1/18/03****Sections 45-101, 45-201, 45-202, 45-203, 45-302, 45-304, and 80-310**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Eligibilit\\_617.htm](http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm).

Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001) amended certain provisions of the Aid to Families with Dependent Children – Foster Care (AFDC-FC) Program in order to bring the program in line with federal law changes (Adoptions and Safe Families Act of 1997 – Public Law 105-89). Among other things, the Adoptions and Safe Families Act mandated that approved foster care homes must meet the same standards as licensed foster care homes. Welfare and Institutions Code, Sections 309, 361.3(a)(8) and 362.7 implement this mandate in California. AB 1695 also repealed “certified, license pending” foster homes as an eligible facility for AFDC-FC benefits. 42 United States Code (U.S.C.) 672(a) increased the property limit for recipients of AFDC-FC. This regulations package implements the above requirements and also makes various clean-up revisions.

These regulations were adopted on January 18, 2003 and were considered at the Department's public hearings held on August 12, 13 & 14, 2003.

**FILING INSTRUCTIONS**

**Revisions to all manuals are shown in graphic screen.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing EAS changes was EAS-02-06.

**Page(s)**

534 thru 537  
539.1 thru 542.1  
544 thru 547  
549.1  
553.1 thru 551.1  
558 thru 572  
573 and 574  
861 and 862

**Replace(s)**

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## **CHAPTER 45-100 AFDC-FC PROGRAM PURPOSE**

The purpose of the Aid to Families with Dependent Children--Foster Care Program is to provide financial assistance for those children who are in need of substitute parenting and who have been placed in foster care.

### **45-101 DEFINITIONS**

**45-101**

The following definitions shall apply to the terms used in the AFDC-FC Program:

- (a) (1) AFDC-FC means Aid to Families with Dependent Children--Foster Care and is the aid provided on behalf of needy children in foster care who meet the eligibility requirements as specified in department regulations and in applicable state and federal laws.
- (2) Approved Home means one of the following:
  - (A) The home of a relative which is approved as meeting the same standards as licensed foster family homes as set forth in Foster Family Home Regulations, California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.
  - (B) A family home which is the home of a nonrelative extended family member which has been approved as meeting the same standards as licensed foster family homes as set forth in Foster Family Home Regulations, California Code of Regulations, Title 22, Division 6, Chapter 9.5, Article 3.
  - (C) A family home which is used only for the placement of an Indian child(ren); and which has been licensed, approved or specified by that Indian child's tribe.
- (3) Assessment means the written document in the services case record which states the reason necessitating the child's placement into foster care and which identifies the child's problems or needs at the point in time the document is completed.
- (4) Authority for Placement means the legal basis under which a child is residing in foster care placement.

(b) Reserved

(c) (1) Case Plan means "a written document" as defined in Welfare and Institutions Code Section 11400(b) and 45 CFR 1356.21(d).

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(A) Welfare and Institutions Code Section 11400(b) provides that a case plan means a written document in the services case record which at a minimum specifies how the child's problems or needs identified in the assessment are to be addressed including:

1. The type of home in which the child shall be placed and the appropriateness of the home for meeting the child's needs and
2. The agency's plan for ensuring that the child, the family and foster care provider receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care and to reunify the child with his or her family or, when reunification is not possible, to facilitate an alternative permanent plan.

(B) 45 CFR 1356.21(d) provides that the case plan:

1. Be a discrete part of the case record which is available to the parent(s) or guardian of the foster child;
2. Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interest and special needs of the child; and
3. After October 1, 1983, include a description of the services offered and the services provided to prevent the removal of the child from the home and to reunify the family.

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<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (2) "Certified Family Home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.
- (3) Certified Out-of-State Group Home means a facility:
  - (a) Which is located outside of the State of California,
  - (b) Which would meet the definition of group home as defined in Section 45-101(g)(1) were it located within the State of California, and
  - (c) Which has been certified by the Department as meeting the licensure standards required of group homes operated in California or the Department has granted a waiver to a special licensing standard upon a finding that there exists no adverse impact on health and safety.
- (4) Community Care Licensing Agency means the department or a county welfare department authorized by the department to license family homes and group homes in accordance with Title 22, Division 6, of the California Code of Regulations.
- (5) Compact Administrator means an individual designated by the governor as the Administrator of the Interstate Compact on the Placement of Children.
- (6) Court Order means only the judicial determinations specified in either Sections 45-101(c)(7)(A) or (B) and made by the juvenile court or by an Indian Tribal Court as defined in Section 45-101(i)(6). In California, the filing of a petition commences proceedings in a juvenile court. If the petition is not dismissed, the following two categories of judicial orders apply:
  - (A) Detention order means the order issued by the juvenile court pursuant to Welfare and Institutions Code Section 319 or 636 which permits detention of a child pending a jurisdictional hearing to determine whether the child is to be made a dependent or ward of the court. A detention order is limited to 15 judicial days unless continued by the court. A judicial day is a day on which the court is in session, i.e., not a weekend or court holiday.
  - (B) Jurisdictional and Dispositional Orders means the orders issued by the juvenile court which declare the child a dependent or ward of the court and designate to whom the child is to be released.

<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (d) (1) Department means the State Department of Social Services.
- (2) Detention Order--See definition of "Court Order".
- (3) Dispositional Order--See definition of "Court Order".
- (e) (1) Eligible Facility means a home that meets the requirements of the AFDC-FC program and in which an eligible child may be placed.
- (f) (1) Family Home means the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency, or a family residence which is approved and which provides such care and supervision.
- (2) Family Reunification Services means services provided to the family and the child in foster care placement for the purpose of safely returning the child to his or her family.
- (3) FFP means federal financial participation and is participation by the federal government in sharing the cost of AFDC-FC payments.
- (4) Former relative means a person related to the child by birth or adoption by virtue of being one of those persons listed in Section 45-101(r)(1)(A) when legal rights to the child are terminated by the filing of a relinquishment with the Department or by court action.
- (5) Foster Care means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them and who are in need of temporary or long-term substitute parenting.



<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (l) (1) Legal Guardian means the individual appointed permanent or temporary guardian of the person or of the person and estate of a child by a California court pursuant to Probate Code Section 1514 or 2250, or Section 1440 if guardianship was established prior to January 1, 1984; or Welfare and Institutions Code Section 360 or 366.25(e).
- (m) (1) Multidisciplinary Team means a team consisting of members from the local county social services agency, the county mental health agency, the county probation department, the county superintendent of schools office, and other members identified by the county pursuant to Family Code 7911.1(f).
- (n) (1) Nonrelative Extended Family Member means an adult caregiver who has an established familial or mentoring relationship with the child which has been verified by the county welfare department.
- (o) Reserved
- (p) (1) Periodic Review means a review of the child's status which is conducted by the juvenile court, an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation, or an administrative panel. Such review shall include:
  - (A) A determination of the continuing need for placement in foster care;
  - (B) An evaluation of the goals for the placement and the progress towards meeting such goals;
  - (C) A target date for the child's return home or establishment of an alternate permanent placement;
  - (D) For children placed out-of-state, whether the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the child's best interest; and
  - (E) For children placed out-of-state, whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).

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<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (2) Permanent Placement Services means services provided to the child for the purpose of locating and maintaining a placement that can be expected to be permanent, such as adoption, establishment of a legal guardianship or long-term foster care.
- (3) Permanency Planning Hearing means a hearing conducted by the juvenile court or an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation. The purpose of the hearing shall be to establish and maintain a plan for the child's permanent living arrangement, including family reunification, adoption, establishment of a legal guardianship, or long-term foster care. For children placed out-of-state, the court must review whether the out-of-state placement continues to be the most appropriate placement for the child, continues to be in the child's best interests, and whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).
- (4) Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.
- (5) Placement and Care means either:
  - (A) The responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having:
    - 1. Been delegated care, custody, and control of a child by the juvenile court,
    - 2. Taken responsibility pursuant to a relinquishment or termination of parental rights on a child.
    - 3. Taken the responsibility of supervising a child detained by the juvenile court pursuant to Welfare and Institutions Code Sections 319 or 636,
    - 4. Signed a voluntary placement agreement for the child's placement; or
  - (B) The responsibility designated to an individual by virtue of his or her having been appointed the child's legal guardian.
- (6) Placement Worker means the individual(s) within the placement agency responsible for the placement, supervision, services case management and provision of services to an AFDC-FC eligible child. This refers to the county welfare department social services worker, county probation officer, or the adoptions worker of a licensed public or private adoption agency or a district adoptions office of the department.

<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (7) Preplacement Preventive Services means services provided to the child and his or her family prior to placement into foster care for the purpose of preventing or eliminating the need for removal.
- (8) Provider means any individual or corporation which provides foster care to a child and can include licensed foster parents, relative caregivers, legal guardians, certified foster parents, and group homes.
- (9) Public Child Care Institution means a publicly-operated, nonsecure child care facility which has a licensed capacity not exceeding twenty-five children and is licensed as a residential community care facility by the department.
- (10) Public Funds means federal, state, and county funds.
- (q) Reserved
- (r) (1) A Relative means:
  - (A) A person related to the child by birth or adoption who is in within the fifth degree of kinship to the child by virtue of being one of the following:
    - 1. The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, or any such person of a preceding generation denoted by the prefixes grand-, great-, or great-great-, or great-great-great.
    - 2. The stepfather, stepmother, stepbrother or stepsister.
    - 3. The spouse of any person named in Section 45-101(r)(1)(A)1. or 2. above, even after the marriage has been terminated by death or dissolution.
  - (B) For AFDC-FC purposes, when a parent's rights to a child are terminated by the filing of a relinquishment with the Department or by court action, that parent and his or her relatives are no longer considered to be the child's relatives.

<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (2) Relinquished Child means a child who has been given up for adoption by one or both parents to a licensed public or private adoption agency or to a district adoptions office of the department.
- (s) Reserved
- (t) (1) Termination of parental rights and responsibilities with respect to a child as the result of an order of the court issued under Family Code Section 7800 et. seq., Family Code Section 7660 et. seq., or Welfare and Institutions Code Section 366.26.
- (2) Transitional Housing Placement Facility means a community care facility licensed by the Department as part of the Transitional Housing Placement Program (THPP) which provides transition housing opportunities to foster youth as specified in Welfare and Institutions Code Section 11400(r)(1).
- (u) Reserved
- (v) (1) Voluntary Placement is as defined in Welfare and Institutions Code Section 11400. Voluntary placements which meet the criteria of Welfare and Institutions Code Section 11400 and which occurred on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states in part:

"Voluntary Placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

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- (2) Voluntary Placement Agreement is as defined in Welfare and Institutions Code Section 11400. Voluntary placement agreements which meet the criteria of Welfare and Institutions Code Section 11400 and which were entered into on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states, in part:

"Voluntary placement agreement" means a written agreement between either the the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 1502(a)(1) and 1505, Health and Safety Code; Sections 360, 361.2(g), 361.3 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997 and as further amended by AB 2773, Chapter 1056, Statutes of 1998), 309, 362.7, 366, 366.21, 366.26, 366.3, 727.1, 11400(b), 11400(h), 11400(m), 11400(n), 11400(r), 11401(b), 11401(e), 11402, 11404.2, 11466.24, and 16507.5(b), Welfare and Institutions Code; Sections 7660 et seq., 7800 et seq., and 7911.1, Family Code; Section 2250, Probate Code; 45 CFR 1356.21(d); Public Law 95-608; 25 U.S.C. 1915; and 42 U.S.C. 606.

<b>45-200</b>	<b>AFDC-FC ELIGIBILITY</b>	<b>45-200</b>
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- .1 To be eligible for AFDC-FC, a child shall meet the requirements under either the federal AFDC-FC Program or the state AFDC-FC Program and all requirements in Chapter 45-300 which apply to that child.
  - .11 Federal AFDC-FC Program
    - .111 A child shall meet all general requirements specified in Section 45-201 and all federal requirements specified in Section 45-202.
  - .12 State AFDC-FC Program
    - .121 A child shall meet all general requirements specified in Section 45-201 and all state requirements specified in Section 45-203.
- .2 An infant supplement shall be paid for the care and supervision of a child living with his/her minor parent in the same eligible facility when the minor parent meets either of the requirements in Sections 45-200.11 or .12.
- .3 The payment sections MPP Section 44-206 shall be effective February 28, 1989 and MPP Section 45-302.21 shall be effective March 1, 1989.

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS</b>	<b>45-201</b>
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- .1 The child shall meet:
  - .11 The age requirements of Chapter 42-100;
    - .111 When a child who is in foster care reaches age 18, the child shall continue to be eligible for AFDC-FC up to age 19, provided all the following conditions are met:
      - (a) The child was receiving AFDC-FC and attending high school or a vocational-technical training program on a full-time basis prior to reaching age 18;
      - (b) The child continues to:
        - (1) Meet the AFDC-FC eligibility requirements of this section;
        - (2) Reside in foster care;

**45-201 GENERAL AFDC-FC REQUIREMENTS (Continued)****45-201**

- (3) Attend on a full-time basis either a high school or, if he/she has not completed high school, a vocational-technical training program which cannot result in a college degree as specified in Section 42-101.2 provided he/she is reasonably expected to complete either program before reaching age 19. Full-time attendance must be defined and verified by child's school.
  - (c) The child and the placement agency have signed a mutual agreement which documents the continued need for foster care placement. The agreement shall be signed prior to or within the month the child reaches age 18. A mutual agreement shall not be required if the placement is due to a court order which remains in effect or if the child is not capable of making an informed agreement. If the court order is dismissed subsequent to the month in which the child reaches age 18, a mutual agreement must be executed within the month the dismissal occurs.
  - (1) The income maintenance case record shall contain a statement from the placement worker, on the FC 2, which certifies that the mutual agreement or the court order is in the services case record or that the child is not capable of making an informed agreement. This certification shall occur prior to or within the month the child reaches age 18 and at redetermination of the child's AFDC-FC eligibility.
- .12 The property requirements in Chapter 42-200;
- .121 Up to \$10,000 in cash savings is exempt for purposes of determining eligibility and grant amount.
  - (a) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
  - (b) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
  - (c) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.



<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .122 See Sections 31-002(i)(1), (i)(1)(A), and 31-525 for the definition and description of ILP.

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- .13 The residence requirements in Chapter 42-400;
- .14 The citizenship and alienage requirements in Subchapter 42-430;
- .15 The social security enumeration requirements in Section 40-105.24; and
- .16 The income requirements in Chapter 44-100.
- .161 Pursuant to Section 44-111.261, income and incentive payments earned by a child 16 years of age or older who is participating in the ILP are exempt as income for purposes of eligibility and grant determination when received as part of the ILP written transitional independent living plan.
- (a) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (b) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (c) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- .162 There is no limit to the amount exempted under Section 45-201.161.
- .163 Repealed by Manual Letter No. 91-09, effective 5/28/91.

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- .164 See Sections 31-002(i)(1), (i)(1)(A), and 31-325 for the definition and description of ILP.

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<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .2 The AFDC-FC rate as determined in Chapter 11-400, including amounts for specialized care but not including special need payments, shall constitute the need standard for a child receiving AFDC-FC and shall be greater than the child's net nonexempt income as determined in Chapter 44-100. Income received by the child's parents shall not be used to determine the AFDC-FC aid payment unless the parents make their income and/or income the parents receive on behalf of the child available to meet the child's needs.
- .3 The following child support requirements:
- .31 The county shall provide the district attorney with the information specified in .311 through .313 below:
- .311 A completed referral form;
- .312 Any information the county has which indicates that the district attorney should not proceed with child support enforcement including an agreement to establish good cause for not cooperating with the district attorney if one has been completed by either or both of the child's parents;
- .313 Any other forms or information, including a Child Support Questionnaire (CA 2.1), requested by the district attorney.
- .32 The general requirements of Sections 43-200, 43-201.2 and 43-203 shall be met.
- .4 The following services requirements shall be met:
- .41 The agency with responsibility for placement and care of the child shall:
- .411 Provide preplacement preventive services to children placed into foster care on or after October 1, 1983, and document in the services case record why provision of these services was not successful in maintaining the child with his or her family.
- (a) The provision of preplacement preventive services shall not be required when the current authority for placement of the child is either:
- (1) relinquishment of the child by one or more parents or termination of the parental rights of one or more parents; or
- (2) nonrelated legal guardianship.

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- .72 Examples of a foster child's circumstances which are subject to change include, but are not limited to, deprivation, financial need, authority for placement, eligible facility, etc.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361.21, 366.25, 366.3, 727.1, 11008.15, 11155.5, 11400(b), 11401(b), 11402, 11403, and 11404.1, 16516.5, Welfare and Institutions Code; 7911.1, Family Code; 42 U.S.C. 672(a); and 45 CFR 1356.21(d).

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45-202	FEDERAL AFDC-FC PROGRAM (Continued)	45-202
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.412 Removal by Voluntary Placement

- (a) The child shall be removed from the home of a parent or guardian as a result of a voluntary placement agreement. This out-of-home placement of a minor without adjudication by the juvenile court shall occur only when both of the following conditions exist:
- (1) There is a mutual decision between the child's parent or guardian and the placing agency; and
  - (2) There is a written binding agreement between either the county welfare department, a licensed public adoption agency or the Department acting as an adoption agency, and the parent or guardian of the minor.

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45-202	FEDERAL AFDC-FC PROGRAM (Continued)	45-202
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- (b) The voluntary placement agreement shall specify the legal status, rights and obligations of the child; the rights and obligations of the placing agency; the rights and obligations of the parent or guardian; and any other relevant factors.
- (c) Time Limitations
  - (1) A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days commencing with the date one of the listed agencies in Section 45-202.412(a)(2) assumes responsibility under a voluntary placement agreement and provided all other eligibility requirements are met.
  - (2) The voluntary placement agreement shall be signed prior to or at the time of placement and shall state the beginning date of placement and planned return date of the child to his/her home. This period shall not exceed 180 days.
  - (3) A child voluntarily placed shall be eligible for AFDC-FC payments for subsequent voluntary placements. However, a new 180-day period of eligibility for AFDC-FC payments shall commence only if the child's prior voluntary placement was previously terminated and the child was returned to his/her home. Any subsequent placements shall meet the requirements of Sections 45-202.412(c)(1) and (2).

.42 The income maintenance case record shall contain a statement from the placement worker, on the FC 2 form, which certifies that a copy of the court order or voluntary placement agreement is in the services case record. If Section 45-202.411(c)(2) applies, the case record shall also contain a statement from the placement worker, on the FC 2, or a substitute form approved by the Department, which certifies that the child meets the requirements of Section 45-203.311. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.

.5 Eligible Facilities

.51 Except as provided in Section 45-202.52, the child shall be residing in one of the following eligible facilities:

- .511 The approved home of a relative, former relative, or nonrelative extended family member.

45-202	FEDERAL AFDC-FC PROGRAM (Continued)	45-202
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- (a) Former relatives must be approved pursuant to Section 45-101(a)(2)(A) in order to receive federal AFDC-FC.

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- .512 A family home licensed by the appropriate community care licensing agency.
- .513 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.
- .514 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.
- .515 A Transitional Housing Placement Facility licensed by the Department.
- .516 In the case of an Indian child, a facility specified in Section 45-202.511 through .515 or family home as defined in Section 45-101(a)(2)(C).
- .517 In the case of a child placed out of the State of California, the child shall be placed in any of the following:
- (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072.
  - (b) A certified out-of-state group home; or
  - (c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.



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Title 22 California Code of Regulations, Section 80072 provides the following conditions be met:

- (a) Each client shall have personal rights which include, but are not limited to, the following:
  - (1) To be accorded dignity in his/her personal relationships with staff and other persons.
  - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
  - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with the daily living functions, including eating, sleeping or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning.

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- (G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
  2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (b) All clients, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a)(1) through (9) above and in the applicable Personal Rights sections of Chapters 2 through 7.
- (c) The information specified in (b) above shall be prominently posted in areas accessible to such clients and their visitors.
- (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

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<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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.518 Repealed by Manual Letter No. EAS-03-01, effective 1/18/03.

.52 An otherwise federally eligible child shall be eligible when placed in a public child care institution subject to the following conditions:

.521 AFDC-FC funding for a child placed in public child care institutions shall be limited as specified in (a) or (b) below. AFDC-FC funding may be continued beyond these time limits only when the child is moved to an eligible facility specified in .51 and all other requirements continue to be met.

(a) AFDC-FC funding for emergency shelter care in a public child care institution shall be available for up to thirty days in any consecutive twelve-month period in lieu of Other County Social Services funds; or

45-202	FEDERAL AFDC-FC PROGRAM (Continued)	45-202
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(b) AFDC-FC funding for nonemergency shelter care in a public child care institution shall be available for up to ninety days within any consecutive twelve-month period when;

(1) the child's placement in one or more eligible facilities has been unsuccessful as a result of the child's behavior and/or treatment needs; and

(2) the agency with placement and care responsibility has determined that no appropriate eligible facility as specified in .51 above, is available.

.522 AFDC-FC funding shall be available under the provisions of .52 only during such federal fiscal year when no funding restriction exists.

.53 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form which certifies that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.

.6 Placement and Care

.61 Responsibility for placement and care shall be vested in one of the following agencies:

.611 A county welfare department.

.612 A county probation department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by the county probation department.

.613 A licensed public adoption agency which is the same governmental agency as the county welfare department.

.614 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by that adoption agency.

<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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- .615 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.
- .62 FFP shall not be available for children living with nonrelated legal guardians unless the juvenile court order remains in effect and specifies that responsibility for placement and care is vested in one of the agencies specified in .61 above.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(m), 11400(o), 11401(b) and (e), 11401(f), 11402, 11402.1, and 16507.4, Welfare and Institutions Code; Sections 7660 et. seq., 7800 et. seq., and 7911.1, Family Code; Section 1505, Health and Safety Code; Public Law 95-608; 25 USC 1915; Public Law 96-272; 45 CFR 1356.30; 42 U.S.C. 606; 42 U.S.C. 671; 42 U.S.C. 672(a)(2) and (4); Sections 80072, 84072, 84072.1, and 84072.2, Title 22, California Code of Regulations; Capitola Land et al. v. Anderson, 55 Cal. App. 4th 69, 63 Cal.Rptr.2d 717, (1997); and Anderson v. Superior Court, 68 Cal.App. 4th 1240, 80 Cal.Rptr.2d 891, (1998).

<b>45-203</b>	<b>STATE AFDC-FC PROGRAM</b>	<b>45-203</b>
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.1 Deprivation

- .11 A child shall be considered deprived of parental support or care when placed in foster care in accordance with a court order or a services determination of the need for foster care or when living with a nonrelated legal guardian.

.2 With Whom Child Must Be Placed

- .21 The child shall be placed with a nonrelative or be living with a nonrelated legal guardian.

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- .211 No aid shall be paid on behalf of a child who is living in the same home as his/her birth or adoptive parent(s) as specified in Section 45-302.2.

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- .22 In the case of an Indian child, the child may be placed with a relative pursuant to the Indian Child Welfare Act.

.3 Authority for Placement

- .31 The child shall meet one of the following criteria:
- .311 The child shall either have been relinquished for purposes of adoption by one or both parents to a licensed public or private adoption agency, or to a district adoptions office of the department, or termination of parental rights of one or both parents shall have been granted.

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<b>45-203</b>	<b>STATE AFDC-FC PROGRAM (Continued)</b>	<b>45-203</b>
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- .312 The child shall be living with a nonrelated legal guardian (see Special Provisions in Section 45-203.61).
- .313 The child was placed pursuant to a court order which remains in effect and specifies:
- (a) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-203.51; and
  - (b) That continuance in the home of the parent, guardian, or relative from whom removed would be contrary to the child's welfare; and
  - (c) That, if the child was placed into foster care on or after January 1, 1986, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home; or
- .314 The child was placed by a parent or guardian under a voluntary placement agreement (see Special Provisions in Section 45-203.63).
- .32 The authority for placement as described under .31 shall be considered to continue for a child aged 18, who was in placement under an authority for placement specified in .311 through .314 above prior to reaching age 18, provided the requirements of Section 45-201.111 are met.
- .33 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A (11/88) form which certifies that:
- .331 The child meets the authority for placement requirement in .311 above; or
- .332 A copy of one of the following documents granting authority for placement is in the services case record:
- (a) Letters of Guardianship of the Person or of the Person and Estate.
  - (b) The court order.
  - (c) The voluntary placement agreement.

This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility and when there is a change in the authority for placement.

<b>45-203</b>	<b>STATE AFDC-FC PROGRAM (Continued)</b>	<b>45-203</b>
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.4 Eligible Facilities

.41 The child shall be residing in one of the following eligible facilities:

.411 The home of a nonrelated legal guardian, or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise AFDC-FC eligible has been dismissed due to the child's attaining age 18, which has been determined to be suited to the needs of the child by the social worker or probation officer.

.412 The approved home of a nonrelative extended family member.

.413 A family home licensed by the appropriate community care licensing agency.

.414 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.

.415 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers such treatment services.

.416 In the case of an Indian child, a facility specified in Section 45-203.411 through .415 or family home as defined in Section 45-101(a)(2)(C).

.417 In the case of a child placed out of the State of California, the child shall be placed in either of the following:

- (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072;
- (b) A certified out-of-state group home; or
- (c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.

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See Section 45-202.517 for relevant part of Title 22, California Code of Regulations, Section 80072.

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<b>45-203</b>	<b>STATE AFDC-FC PROGRAM (Continued)</b>	<b>45-203</b>
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- .42 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.

.5 Placement and Care

- .51 Except for children living with nonrelated legal guardians or placed voluntarily prior to January 1, 1982, responsibility for placement and care shall be vested in one of the following agencies:

.511 A county welfare department.

.512 A county probation department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by the county probation department.

.513 A licensed public adoption agency which is the same governmental agency as the county welfare department.

.514 A licensed private adoption agency provided the services required in Section 45-201.4 are performed by the adoption agency.

.515 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by that adoption agency.

.516 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.

.6 Special Provisions

.61 Children with Nonrelated Legal Guardians

.611 A child living with a nonrelated legal guardian shall be eligible for AFDC-FC provided:

(a) All general AFDC-FC requirements specified in 45-201.1 through 45-201.3 are met.

(b) The state requirements specified in .1 and .4 above are met.

45-203	STATE AFDC-FC PROGRAM (Continued)	45-203
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- (c) The legal guardian cooperates with the county welfare department in its provision of the social services specified in Section 45-201.4. When the legal guardian is not cooperating, the provisions of Section 45-302.241 shall apply.

.612 The county welfare department shall provide the social services specified in Section 45-201.4.

.62 (Repealed by Manual Letter No. 84-65.)

.63 Children in Voluntary Placement

.631 After January 1, 1983, the decision regarding the need for a child's voluntary placement shall be made by the county welfare department, a licensed public or private adoption agency, or the department and shall not be delegated to any other individual or agency.

.632 Time Limitations

Except as provided in (a), (b), and (c) below, AFDC-FC funding for voluntarily placed children shall be available for a maximum of six months for each child provided all other eligibility requirements continue to be met. The six months need not be one continuous voluntary placement. If more than one placement occurs, the aggregate AFDC-FC payments for all the voluntary placements of the same child shall not exceed a total of six months.

- (a) If placed voluntarily prior to January 1, 1981, the child shall be eligible for AFDC-FC payments provided all other eligibility requirements continue to be met.
- (b) If placed voluntarily on or after January 1, 1981 and before January 1, 1982, the child may continue to receive AFDC-FC payments until January 1, 1982, provided all other eligibility requirements continue to be met. After January 1, 1982, the provisions of .632 above shall apply.
- (c) If the authority for placement changes from a voluntary placement to another authority for placement specified in Sections 45-202.4 or 45-203.31, the six-month time limitation no longer applies.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(g) and (h), 11401(c), 11401(e), 11402, and 11402(c) and (d); Welfare and Institutions Code; Sections 7660 et. seq., 7800 et seq., and 7911.1, Family Code; and Public Law 95-608, 25 U.S.C. 1915.

## CHAPTER 45-300 AFDC-FC PAYEE, PAYMENT AND DELIVERY

### 45-301 ELIGIBLE PAYEES

45-301

#### .1 Federal AFDC-FC Program

.11 FFP shall be available for payments made on behalf of a federally eligible child to any one of the following:

.111 A family home in which the child has been placed.

.112 A licensed, private, nonprofit group home in which the child has been placed.

.113 The probation officer.

.114 A cooperating public or nonprofit private child placement or child care agency which is licensed by the department, where required, and which has responsibility for placement and care of the child.

.115 The licensed homefinding agency which certified the exclusive-use home in which the child has been placed.

#### .2 State AFDC-FC Program

.21 Under the state program, payments shall be made to:

.211 Any one of the payees listed in .1 above.

.212 A licensed, private, non-profit group home in which the child has been placed.

.213 The nonrelated legal guardian with whom the child has been placed.

.214 An eligible child, as his/her own payee, who is temporarily absent from an eligible facility, provided (a) and (b) below are met:

(a) The child is otherwise eligible and:

(1) Aged 16 or 17 and temporarily absent to attend a college, vocational or work and training institution; or

<b>45-301</b>	<b>ELIGIBLE PAYEES (Continued)</b>	<b>45-301</b>
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- (2) Aged 18, and temporarily absent to attend a high school or vocational-technical training program as specified in Section 45-201.111(b)(3).
- (b) All the following conditions are met:
  - (1) Payment to the child is necessary to implement the social service plan.
  - (2) The social worker or probation officer has determined the child is sufficiently mature and responsible.
  - (3) None of the payees in .211 or .212 above is feasible.
  - (4) Payment for the same period has not been made to one of the payees in .211 or .212.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11400(h) and 11402(c), Welfare and Institutions Code.

<b>45-302</b>	<b>PAYMENT</b>	<b>45-302</b>
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**.1 SSI/SSP Supplementation**

- .11 The county shall have the option of supplementing a child's SSI/SSP grant with state AFDC-FC when the child in foster care placement meets all general and state AFDC-FC requirements, and is not otherwise federally eligible. FFP shall not be available in the AFDC-FC supplement to the SSI/SSP grant.

**.2 Payment Conditions**

- .21 Except as specified below, payment shall only be made when the child is not living in the same home as his/her birth or adoptive parent(s) and resides in an eligible facility which is not the same home in which the parent(s), relative, or legal guardian from whom the child was removed makes his/ her home.
  - .211 An infant supplement shall be paid in addition to a minor parent's AFDC-FC payment for a child who is living in the same eligible facility with a minor parent who is receiving AFDC-FC.
  - .212 The infant supplement amount shall be determined pursuant to Section 11-415.

<b>45-302</b>	<b>PAYMENT (Continued)</b>	<b>45-302</b>
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- .22 AFDC-FC payments shall not be made for any days an otherwise eligible child resides in an unlicensed group home or in an unlicensed or unapproved family home.
- .23 Child Temporarily Absent
- .231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county shall have the option of making payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.
- (a) A child who is in a public hospital, as defined in Section 80-301(p)(3), shall be considered temporarily absent from an eligible facility when, on the first of the month for which the AFDC-FC payment is due, the child has not been in the public hospital for two full calendar months, irrespective of the day on which he or she entered that facility.
- .24 Child Living with Nonrelated Legal Guardian
- .241 When the child resides in the home of a nonrelated legal guardian who is not cooperating with the county welfare department in its provision of social services, as required in Section 45-203.611(c), AFDC-FC shall not be paid.
- .25 Child Placed in Out-of-State Group Home
- .251 No public funds shall be expended on behalf of a child placed in an out-of-state group home unless all of the following conditions are met:
- (a) There has been a finding by the court that:
- (1) The group home is licensed or certified for the placement of minors by an agency in the state in which the minor will be placed; and
- (2) All the requirements specified in Family Code Section 7911.1 have been met.
- (b) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Sections 45-302.251(a)(1) and (2) continue to be met.
- (c) The court reviews the out-of-state group home placement at each periodic review and permanent placement hearing to ensure that the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the best interests of the child.

<b>45-302</b>	<b>PAYMENT (Continued)</b>	<b>45-302</b>
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- (d) The assessment and placement recommendation as specified in MPP Section 45-201.44 have been met.
- (e) The monthly visit requirements as specified in MPP Section 45-201.414(a) have been met.
- (f) The child is placed in an eligible facility as specified in MPP Section 45-202.517 or MPP Section 45-203.417, as appropriate.
- (g) There has been an additional finding by the court that in-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the child.
- (h) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Section 45-302.251(g) continue to be met.

**.3 Beginning Date of Aid**

- .31 If the child is determined to be eligible, the beginning date of aid for AFDC-FC shall be the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later.
- .32 For purposes of .31 above:
  - .321 "The date of application" means the date on which an authorized county employee completes, signs and dates an application on behalf of a child, or the date on which the county receives a signed and dated application from the child's parent or a person other than a county employee.
  - .322 "The date on which the child meets all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:
    - (a) All linking and nonlinking factors of eligibility are met, including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility requirements; and
    - (b) All other applicable conditions of eligibility are met including, but not limited to, technical conditions of eligibility, authority for placement and eligible facility requirements, as specified in MPP 45-201, 45-202 or 45-203, and 45-300. Technical conditions of eligibility as specified in MPP 45-302.322(c) are considered to be met on the date of application as long as the conditions are completed by the date of authorization.



<b>45-302</b>	<b>PAYMENT (Continued)</b>	<b>45-302</b>
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**.5 Last Date of Payment**

.51 Except as provided in .511 below, the last date of payment shall be the day preceding the day the child permanently leaves, is removed or runs away from an eligible facility, or turns eighteen (or nineteen pursuant to Section 45-201.1).

.511 The county shall have the option of making an additional AFDC-FC payment beyond the date in which the child permanently leaves or is removed from foster care provided the following conditions are met:

- (a) The child has been moved from the eligible facility to what the placement agency considers a potentially unstable living arrangement or the child has run away from such eligible facility.
- (b) The same eligible facility has agreed to take the child back immediately upon notice from the placement agency, regardless of whether the child actually returns to that same facility.
- (c) The child has not been moved from one eligible facility to another eligible facility.
- (d) No other AFDC-FC payment has been made for the same period.
- (e) The additional payment does not exceed the monthly rate set for the eligible facility and does not extend beyond the end of the month in which the child leaves the facility.

.52 When an otherwise eligible child has been moved from one eligible facility to another, the day the child is moved and placed in the second facility shall be the first day of payment for the second provider.

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**.6 Rate of Payment**

.61 For provisions pertaining to rate setting for family homes, group homes and foster family agencies, see Chapter 11-400.

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**HANDBOOK CONTINUES**

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<b>45-302</b>	<b>PAYMENT (Continued)</b>	<b>45-302</b>
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**HANDBOOK CONTINUES**

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- .62 For provisions pertaining to clothing allowance and funeral expense special needs for AFDC-FC, see Section 11-420.

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NOTE: Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.  
Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, and 16516.5, Welfare and Institutions Code.

<b>45-303</b>	<b>PAYMENT DELIVERY</b>	<b>45-303</b>
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- .1 AFDC-FC payments shall be delivered in one amount no later than the fifteenth of the month following the furnishing of care. Warrants shall not be forwarded or mailed outside the United States, as specified in Section 44-305.21.

<b>45-304</b>	<b>AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, NONRELATIVE EXTENDED FAMILY MEMBERS, AND NON-RELATED LEGAL GUARDIANS - GENERAL</b>	<b>45-304</b>
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- .1 Overpayment Recovery for Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians
- .11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled. A provider is not entitled to aid where the provider did not care for the child in his or her home for the period of time for which he or she was paid.
- .12 The county shall take all reasonable steps necessary to promptly correct and collect any overpayments that are discovered by the county on or after January 1, 1999.
- .121 The county shall not demand collection of overpayments where any of the following conditions exist:
- (a) The child was temporarily absent from the provider's home and payment was made to the provider to meet the child's needs pursuant to Section 45-302.231;
  - (b) The overpayment was exclusively the result of a county administrative error;

**80-310**      **DEFINITIONS - FORMS**  
(Continued)

**80-310**

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|------|--------|---|
| (7)  | CA 22  | The "Alien Sponsor's Statement of Facts Regarding Income and Resources (Supplemental Application for Food Stamps and AFDC)" (Rev. 10/85) is the form used to collect the information about the alien sponsor necessary to determine the eligibility of an applicant who is a sponsored alien.       |
| (8)  | CA 23  | The "Senior Parent(s)/Legal Guardian(s) Statement of Facts" (Supplement to CA 2, Rev. 1/89) is used to collect information about the senior parent/legal guardian's income to determine a minor parent's eligibility.   |
| (9)  | CA 24  | The "Sponsoring Agency or Organization's Statement of Facts Regarding Ability to Meet the Alien's Needs" (Rev. 1/85) is used to collect the necessary information to determine the eligibility of an alien who is sponsored by an agency or organization.   |
| (10) | CA 42  | The "Statement of Facts for Homeless Assistance (Rev. 1/96)" is used to gather information to determine eligibility for non-recurring special need for homeless assistance.   |
| (11) | CA 371 | The "Referral to District Attorney" (Rev. 3/93) is used to refer cases to the District Attorney for child support enforcement purposes.   |
| (12) | CW 7   | The "Monthly Eligibility Report" (Rev. 7/00) is used to collect information for cash aid and food stamps. The CW 7 replaces the CA 7.   |
| (13) | CCP 1  | The Declaration of Exemption From Trustline Registration and Health and Safety Self-Certification, (10/98), Recommended, is used to declare that an individual; the aunt, uncle, grandmother/father, great grandmother/father, great aunt/uncle of the child(ren) in care is exempt from licensure. |

**80-310      DEFINITIONS – FORMS (Continued)****80-310**

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|--------------------------|--|
| (14) CCP 4               | The Health and Safety Self-Certification (For license-exempt providers), (10/98), Required (Substitutes Permitted), is used for a license-exempt child care provider who is serving a family that receives subsidized child care. Also, this form certifies that the home where child care is provided meets basic health and safety standards, including the prevention and control of infectious diseases. |
| (15) CCP 6               | The Health and Safety Facility Checklist, (7/98), Required (Substitutes Permitted), is used to provide parents with a list of suggested questions to ask their child care provider to ensure that the home where care is to be provided is a safe and healthy place for their child(ren).  |
| d. (1) DHS 6110          | The Medical Insurance Form (Rev. 10/91) is used to collect information regarding medical coverage and identify third parties who may be liable to pay for medical expenses of AU members.  |
| (2) DHS 6155             | The Health Insurance Questionnaire (Rev. 10/90) is used to collect information regarding medical coverage and identify third parties who may be liable to pay for medical expenses of AU members.  |
| e. (Reserved)            |  |
| f. (1) FC 2              | The "Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)" (Rev. 7/02) is used to collect information necessary to determine foster care eligibility at the time of application and redetermination.  |
| (2) FC 18                | The "Notification of AFDC-Foster Care Transfer" (Rev. 2/97) collects and transmits the information necessary to transfer a foster care case between counties.  |
| g. through i. (Reserved) |  |
| j. (1) JA 2              | The "Statement of Facts - Cash Aid and Food Stamps" (Rev. 4/90) is used to collect the information necessary to determine eligibility at the time of application and redetermination. This form replaces the CA 2.   |